

#### § 327.6

the hearing and any data or material submitted in justification thereof, materials submitted in opposition to or in support of the proposed action, the hearing transcript, and such other material as may be relevant or pertinent to the subject matter of the hearing. The administrative record shall be available for public inspection with the exception of material exempt from disclosure under the Freedom of Information Act.

#### § 327.6 Legal adviser.

At each public hearing, the district counsel or his designee may serve as legal advisor to the presiding officer. In appropriate circumstances, the district engineer may waive the requirement for a legal advisor to be present.

#### § 327.7 Representation.

At the public hearing, any person may appear on his own behalf, or may be represented by counsel, or by other representatives.

#### § 327.8 Conduct of hearings.

(a) The presiding officer shall make an opening statement outlining the purpose of the hearing and prescribing the general procedures to be followed.

(b) Hearings shall be conducted by the presiding officer in an orderly but expeditious manner. Any person shall be permitted to submit oral or written statements concerning the subject matter of the hearing, to call witnesses who may present oral or written statements, and to present recommendations as to an appropriate decision. Any person may present written statements for the hearing record prior to the time the hearing record is closed to public submissions, and may present proposed findings and recommendations. The presiding officer shall afford participants a reasonable opportunity for rebuttal.

(c) The presiding officer shall have discretion to establish reasonable limits upon the time allowed for statements of witnesses, for arguments of parties or their counsel or representatives, and upon the number of rebuttals.

(d) Cross-examination of witnesses shall not be permitted.

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(e) All public hearings shall be reported verbatim. Copies of the transcripts of proceedings may be purchased by any person from the Corps of Engineers or the reporter of such hearing. A copy will be available for public inspection at the office of the appropriate district engineer.

(f) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, subject to exclusion by the presiding officer for reasons of redundancy, be received in evidence and shall constitute a part of the record.

(g) The presiding officer shall allow a period of not less than 10 days after the close of the public hearing for submission of written comments.

(h) In appropriate cases, the district engineer may participate in joint public hearings with other Federal or state agencies, provided the procedures of those hearings meet the requirements of this regulation. In those cases in which the other Federal or state agency allows a cross-examination in its public hearing, the district engineer may still participate in the joint public hearing but shall not require cross examination as a part of his participation.

#### § 327.9 Filing of the transcript of the public hearing.

Where the presiding officer is the initial action authority, the transcript of the public hearing, together with all evidence introduced at the public hearing, shall be made a part of the administrative record of the permit action or Federal project. The initial action authority shall fully consider the matters discussed at the public hearing in arriving at his initial decision or recommendation and shall address, in his decision or recommendation, all substantial and valid issues presented at the hearing. Where a person other than the initial action authority serves as presiding officer, such person shall forward the transcript of the public hearing and all evidence received in connection therewith to the initial action authority together with a report summarizing the issues covered at the hearing. The report of the presiding officer and the transcript of the public hearing and evidence submitted thereat shall in